

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 42 of 1991

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SOHAM SQUARE OWNERS ASSOCIATION

Versus

AHMEDABAD MUNICIPAL CORPN.

Appearance:

MR RN SHAH for Appellant

MR S TRIPATHY for Respondent No.1

MR PRANAV G DESAI for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 25/02/97

ORAL JUDGEMENT

1. This is an appeal from order under Order 43, Rule 1, CPC, filed by the original plaintiff, challenging the order of rejection passed by the trial court, refusing to grant injunction in favour of the appellant-plaintiff.

2. As a result of the hearing and discussion in the present appeal, the following facts emerge:

2.1 The appellant is the original plaintiff who had filed an injunction application in the suit praying for injunction restraining the respondents-defendants from implementing and/or enforcing the show-cause notice under section 260 (1) and (2) of the Bombay Provincial Municipal Corporation Act, whereby the plaintiff was called upon to show cause why the construction erected by the plaintiff should not be pulled down. At the initial stage, by an order passed by the trial court below Exh.5, an ad interim injunction as prayed for by the plaintiff was granted. However, after hearing the defendants the trial court vacated the same and hence the present appeal.

3. It is, therefore, not in dispute that during the pendency of the hearing of Exh.5, and during the pendency of the present appeal, the earlier ad interim injunction in favour of the plaintiff was kept alive, and as of today, the hearing of the impugned notice under section 260(1) and (2) of the said Act is stayed.

4. The suit is of the year 1990 and is therefore ripe for hearing.

5. Under these circumstances, it could not be disputed by either party to the appeal that the interests of justice would best be served, not necessarily by obtaining a decision on merits in the present appeal, which may perhaps ultimately influence the trial court in its final judgement and decree, but the interests of justice would best be served by maintaining the present situation until the suit is finally heard and decided.

6. It is, therefore, directed that the trial court shall proceed with the hearing and disposal of the Civil Suit No.3667/90 as expeditiously as possible, and decide the same preferably before 31st October 1997. The interim relief granted by this court by order dated 31st January 1991 in Civil Application No.708/91 shall continue to operate until the suit is finally heard and decided. This appeal is accordingly disposed of with no order as to costs.
